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In the Supreme Court of the United States

WHOLE WOMAN'S HEALTH, *et al.*,
Petitioners,

v.

KIRK COLE, COMMISSIONER, TEXAS DEPARTMENT OF STATE HEALTH SERVICES, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF OF EXPERTS AND ORGANIZATIONS SUPPORTING SURVIVORS OF INTIMATE PARTNER VIOLENCE AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS

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INTERESTS OF *AMICI CURIAE*[1]

Amici are experts in law, social science, and advocacy supporting survivors of intimate partner violence. They include the nation's leading law professors in the field of intimate partner violence, and researchers whose work has exposed the role of intimate partners' use of reproductive coercion in unintended pregnancy.[2] *Amici* work in communities, legislatures, courts, and academia to promote the safety and health of victims of intimate partner violence. These experts are united in their opposition to laws like the challenged provisions of Texas House Bill 2, which impede access to abortion in the name of women's health. Such restrictions present substantial obstacles for all women, but impose a particularly heavy burden on survivors of intimate partner violence. *Amici* submit this brief in support of Petitioners.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Eradicating intimate partner violence in the United States remains elusive. Despite the gains of recent decades in public acknowledgment of this devastating problem, and resources committed to it, such violence still affects nearly one third of women in the United

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[1] No party or party's counsel contributed money intended to fund preparation or submission of this brief, nor did a person other than *Amici* or their counsel contribute money intended to fund preparation or submission of this brief. All parties have consented to the filing of this brief.

[2] Individual Statements of Interest are set out in Appendix A.

States.[3] While people of all genders and sexual orientations are affected by intimate partner violence, women are more likely to experience rape, stalking, and physical violence at the hands of an intimate partner; men are most likely to be the perpetrators of that violence.[4] Intimate partner violence is an even more common experience for women of color: four in 10 Black and Native American women, and one in two multiracial women, will be raped, physically assaulted, or stalked by an intimate partner in their lifetime.[5] Women in Texas suffer such violence at rates even higher than the national average.[6]

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[3] Michele C. Black et al., *The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report*, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (2011), http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf; *see also* Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, 119 Stat. 2960, Title II, § 201(1) (2006).

[4] Black et al., *supra* note 3, at 2-3.

[5] *Id.*; *see also United States v. Deegan*, 605 F.3d 625, 662-65 (8th Cir. 2010) (Bright, J., dissenting) (describing the shockingly high rates of domestic and sexual violence committed against Native American women).

[6] Noel Bridget Busch-Armendariz et al., *Statewide Prevalence of Intimate Partner Violence in Texas*, Institute on Domestic Violence and Sexual Assault, Center for Social Work Research, School of Social Work, University of Texas at Austin 10 (2011), https://socialwork.utexas.edu/dl/files/cswr/institutes/idvsa/publications/DV-Prevalence.pdf (reporting that 37.7 percent of Texas women have experienced abuse in their lifetime).

Survivors of intimate partner violence[7] live in relationships in which their partners undermine their economic security, health, and safety. Such domination affects survivors' reproductive health and their autonomy to make reproductive decisions. Women and adolescents in violent relationships are more likely to be forced, through rape or reproductive coercion, into unintended pregnancy They are more likely to need abortions, to face partner-generated barriers to obtaining abortions, and to risk remaining trapped in violent relationships if they are unable to access abortions when they seek them. The consequences of such entrapment range from heightened abuse during pregnancy, to being forced to navigate the legal system while trying to protect their children, to being killed: the leading perpetrators of homicide against women in the United States are current or former intimate partners.[8]

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[7] "Domestic violence" is the term commonly used in state and federal law to describe violence against an intimate partner, but it can also include violence between family members, such as parents and children, or elder abuse. *See* Claudia Garcia-Moreno et al., *Understanding and Addressing Violence Against Women: Intimate Partner Violence*, World Health Organization 1 n.1 (2012), http://apps.who.int/iris/bitstream/10665/77432/1/WHO_RHR_12.36_eng.pdf. *Amici* use the more specific term "intimate partner violence" to describe the abuse that occurs in intimate relationships.

[8] Alexia Cooper & Erica L. Smith, *Homicide Trends in the United States, 1980-2008, Annual Rates for 2009 and 2010*, Bureau of Justice Statistics, Office of Justice Programs, U.S. Dep't of Justice 10 (2011), http://bjs.gov/content/pub/pdf/htus8008.pdf (over the course of the 28-year period studied, 63.7 percent of women homicide victims were killed by an intimate).

This Court has recognized the severity and prevalence of intimate partner violence in the United States. *See Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 891 (1992) ("[I]n an average 12-month period in this country, approximately two million women are the victims of severe assaults by their male partners."). While affirming a woman's constitutional right to have an abortion, the Court in *Casey* also acknowledged the impact of abuse on a woman's ability to obtain one. Holding unconstitutional Pennsylvania's requirement that a woman notify her spouse of her abortion, the Court explained that, while the spousal notification provision might not impede access to an abortion for a woman in a healthy relationship, for a survivor of intimate partner violence, "it will impose a substantial obstacle. We must not blind ourselves to the fact that the significant number of women who fear for their safety and the safety of their children are likely to be deterred from procuring an abortion as surely as if the Commonwealth had outlawed abortion in all cases." *Id.* at 893-94.

In the more than two decades since the Court decided *Casey*, U.S. law and society have followed the Court's lead in recognizing and responding to intimate partner violence. Every state and the District of Columbia now provide a process for obtaining civil orders for protection against abusive partners.[9] In 2013, Congress reauthorized the Violence Against

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[9] *See* American Bar Association Commission on Domestic & Sexual Violence, *Domestic Violence Civil Protection Orders (CPOs) By State* (2008), http://www.americanbar.org/content/dam/aba/migrated/domviol/docs/DV_CPO_Chart_8_2008.authcheckdam.pdf.

Women Act (VAWA), originally passed in 1994.[10] VAWA has changed the landscape of federal and state law and policies addressing intimate partner violence: among its many improvements, it requires that states give full faith and credit to other states' and tribes' protection orders,[11] creates a process by which battered immigrants may obtain visas to remain in the United States without the control of violent spouses or partners,[12] recognizes tribal jurisdiction over domestic violence cases,[13] and ensures that lesbian, gay, bisexual, and transgender survivors of abuse receive the law's protection.[14] These and other provisions of VAWA attempt to eliminate barriers that prevent survivors of intimate partner violence from attaining safety. Laws like the challenged provisions of Texas' H.B. 2 – provisions that, if upheld, will result in the

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[10] Violence Against Women Act Reauthorization Act of 2013, Pub. L. No. 113-4 (hereinafter "VAWA 2013"), 127 Stat. 54 (2013) (reauthorizing and amending the Violence Against Women Act of 1994).

[11] 18 U.S.C. § 2265.

[12] VAWA 2013, § 805, 127 Stat. at 111 (amending Section 214(p) of the Immigration and Nationality Act (8 U.S.C. § 1184(p)).

[13] VAWA 2013, § 904, 127 Stat. at 120 (amending Title II of Public Law No. 90-284 (25 U.S.C. § 1301, *et seq.*)). (commonly known as the "Indian Civil Rights Act of 1968")).

[14] VAWA 2013, § 3, 127 Stat. at 59, 61, 66 (amending subsection (a) of Section 40002 of the Violence Against Women Act of 1994 (42 U.S.C. § 13925(a)) and § 304, 127 Stat. at 89 (amending Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. § 1092(f)).

closure of all but 10 or fewer abortion clinics in Texas[15] – disempower survivors and threaten their physical and emotional health, in conflict with national efforts to address intimate partner violence.

H.B. 2 does not include a spousal notification provision, such as the one declared unconstitutional in *Casey*. *See* Casey, 505 U.S. at 898 (spousal notification requirement is unconstitutional because it presents a substantial obstacle to abortion for women with abusive husbands, and violates women's liberty, bodily integrity, and status as equals by giving their husbands "the kind of dominion over [them] that parents exercise over their children"). But Texas' roundabout way of denying abortion access – by limiting women's access to abortion clinics ostensibly for their own health – is no less paternalistic and will have similarly devastating consequences for the thousands of Texas women who experience unintended pregnancies with abusive partners.

To suggest that women's health is served by imposing additional, state-generated barriers to access to abortion services ignores the devastating impact of intimate partner violence on women and their reproductive health, as well as the critical nature of access to abortion for women in violent relationships.

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[15] Pls.' Resp. to Fifth Circuit Directive, Dkt. No. 00513077018.

ARGUMENT

I. Survivors of intimate partner violence are at heightened risk of unintended pregnancy.

Intimate partner violence typically involves more than the physical assault of one partner by another. Abusive partners maintain the relationship – and their power within it – through coercion. Among the ways in which abusive partners exert coercive control is through dominating reproductive decisions, sabotaging birth control, and forcing or coercing sex. Women and girls abused by male partners are thus at heightened risk of unintended pregnancy

A. Abusive partners create the conditions for unintended pregnancy through the use of violence and coercive control.

"Coercive control" describes the domination of an intimate partner through a variety of tactics that degrade the other partner's physical safety, economic security, and sense of self-worth.[16] These tactics include isolating the abused person from family, friends, and co-workers, and monitoring the abuse victim's whereabouts and relationships.[17] Abusive partners may limit their partners' access to financial resources, track

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[16] *See* Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* 198-200 (2009); *see also* Elizabeth M. Schneider, *Battered Women and Feminist Lawmaking* 65 (2000).

[17] Karla Fischer et al., *The Culture of Battering and the Role of Mediation in Domestic Violence Cases*, 46 S.M.U. L. Rev. 2117, 2126-27 (1993).

their use of transportation, and catalogue their time spent out of the home.[18] They frequently threaten to retaliate against their partners by harming or kidnapping their children.[19] These difficulties are heightened for abuse victims who are immigrants or whose first language is not English, because their isolation from social support may be more profound.[20]

Economic control is another common aspect of coercive control of an intimate partner, and may include threats or stalking at the workplace, severe restriction of the partner's access to money, and sabotaging employment.[21] Together, these actions

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[18] *Id.* at 2121-22, 2131-32; *see also* Leigh Goodmark, *A Troubled Marriage: Domestic Violence and the Legal System* 42 (2012).

[19] Fischer et al., *supra* note 17, at 2122-23.

[20] *See* Mary Ann Dutton et al., *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 Geo. J. on Poverty L. & Pol'y 245, 251-54 (2000); *see also* Amanda M. Cummings et al., *Intimate Partner Violence Among Hispanics: A Review of the Literature*, 28 J. Family Violence 153, 168 (2012) (reviewing existing research and finding that intimate partner violence against Latinas was associated with "[l]ack of social support or social isolation consistent with what we know about the cycle of violence in which the abusive partner often aims to isolate the victim from his or her family and friends, making it difficult to leave the relationship").

[21] Goodmark, *supra* note 18, at 42 (these behaviors contribute to an abused woman's economic insecurity, making it even more difficult to leave the relationship); *see also* Julie Goldscheid, *Gender Violence and Work: Reckoning with the Boundaries of Sex Discrimination Law*, 18 Colum. J. Gender & L. 61, 75-77 (2008) (reviewing studies demonstrating adverse employment experiences of survivors of intimate partner violence).

position the battering partner to use violence with relative impunity, because the abused person's support system, economic security, and resources to seek safety from abuse have been severely compromised.

Even though the astonishing measures that abusive partners take to control their partners are well understood, people still ask: why do abuse victims stay?[22] Simply put: the conduct of the abuser. While poor health and economic insecurity contribute to the difficulty survivors face in leaving abusive relationships, that difficulty is compounded by the increased likelihood of severe violence – including homicide – when the survivor seeks to end the relationship.[23] Federal Bureau of Justice Programs statistics demonstrate that separation from an abuser is one of the most dangerous times for a survivor of

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[22] *See* Sarah M. Buel, *Fifty Obstacles to Leaving, a.k.a., Why Abuse Victims Stay*, 28 Colo. Law 19, 19-20 (1999) (contrary to staying in a dangerous relationship out of "stupidity, masochism, or co-dependence," people may remain in abusive relationships because it is more dangerous to leave, explaining that "a battered woman is 75 percent more likely to be murdered when she tries to flee or has fled, than when she stays").

[23] Elizabeth M. Schneider et al., *Domestic Violence and the Law: Theory and Practice* 68 (3d ed. 2013) (explaining the heightened risk of assault at separation); Jane K. Stoever, *Enjoining Abuse: The Case for Indefinite Protection Orders*, 67 Vanderbilt L. Rev. 1015, 1025 (2014) (arguing for legal reforms to protection order statutes to allow indefinite, rather than time-bound, restraining orders, because "leaving or attempting to leave often escalates and intensifies the violence"); *see also* Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 Mich. L. Rev. 1 (1991); Fischer et al., *supra* note 17, at 2138-39.

intimate partner violence[24] – a danger that is exacerbated if she is pregnant[25] or has children with that partner.[26]

Through these and other coercive control tactics, an abusive partner attempts to subjugate the abused intimate partner entirely. It is not surprising, then, that abusive intimate partners frequently use sexual attacks and coercion, as well as domination of reproductive decisions, as yet another means of exerting power over their partners. As a result, survivors of intimate partner violence are at increased risk of unintended pregnancy.[27]

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[24] Shannan Catalano, *Special Report: Intimate Partner Violence, 1993-2010*, Bureau of Justice Statistics, Office of Justice Programs, U.S. Dep't of Justice 6 (2012, revised Sept. 29, 2015), http://www.bjs.gov/content/pub/pdf/ipv9310.pdf; *see also* Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 Am. J. Pub. Health 1089 (2003).

[25] *See* Merle H. Weiner, *A Parent-Partner Status for American Family Law* 331-32 (2015) (recommending reform of state civil protection order statutes that prohibit protection orders between unmarried partners unless they already have a child in common or are living together, and noting that abuse victims are three times more likely to be murdered by their intimate partners when they become pregnant).

[26] *See* discussion in Part II.B.

[27] American College of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women, *Committee Opinion No. 554: Reproductive and Sexual Coercion* 2 (Feb. 2013), https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co554.pdf?dmc=1&ts=20151228T1259486661.

B. Rape is a disturbingly common aspect of intimate partner violence, and contributes to unintended pregnancies.

Rape frequently co-occurs with intimate partner violence.[28] Women raped by their intimate partners are often more traumatized than victims of other perpetrators, and are more likely to suffer multiple rapes; consequently, they are also more likely to suffer acute and chronic physical and reproductive injuries.[29]

In addition to these injuries, survivors of rape risk forced pregnancy.[30] Approximately one in four survivors of intimate partner violence who are raped by their intimate partners become pregnant, a rate five times the national average for rape-related pregnancy.[31] In keeping with these figures, a University of Texas at

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[28] Meredith Bagwell-Gray et al., *Intimate Partner Sexual Violence: A Review of Terms, Definitions, and Prevalence*, 15 Trauma, Violence, & Abuse 316, 317 (2015) (reported rates of intimate partner rape among women who have been physically assaulted by their partners range from 28 to 68 percent); *see also* Michelle J. Anderson, *Marital Immunity, Intimate Relationships, and Improper Inferences: A New Law on Sexual Offenses by Intimates*, 54 Hastings L. J. 1465, 1509-13 (2003).

[29] Anderson, *supra* note 28, at 1511-12 (analyzing the research on the experiences of victims of marital rape and noting that victims are both less likely to report "and less likely to receive support when they do").

[30] Judith McFarlane, *Pregnancy Following Partner Rape: What We Know and What We Need to Know*, 8 Trauma, Violence, & Abuse 127, 128 (2007).

[31] *Id.* at 130.

Austin study, funded in part by the Governor of Texas, revealed that 22 percent of Texan women in violent relationships experienced pregnancy resulting from rape.[32]

C. "Reproductive coercion" also contributes to unintended pregnancies.

A significant number of women and adolescent girls in violent relationships experience reproductive control resulting in coerced pregnancies.[33] "Reproductive coercion" describes a spectrum of conduct, ranging from rape to threats of physical harm to sabotaging a woman's birth control, used primarily to force pregnancy.[34] "Abused women face compromised decision-making regarding, or limited ability to enact, contraceptive use and family planning, including fear of condom negotiation."[35] Intimate partners may prevent women's access to barrier contraception methods, such as condoms, and to hormonal

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[32] Busch-Armendariz et al., *Statewide Prevalence of Intimate Partner Violence in Texas*, *supra* note 6, at 10.

[33] Elizabeth Miller et al., *Pregnancy Coercion, Intimate Partner Violence, and Unintended Pregnancy*, 81 Contraception 316 (2010); *see also* Anne M. Moore et al., *Male Reproductive Control of Women Who Have Experienced Intimate Partner Violence in the United States*, 70 Soc. Science & Med. 1737 (2010).

[34] Miller et al., *supra* note 33, at 316-17; Moore et al., *supra* note 33, at 1738.

[35] Miller et al., *supra* note 33, at 316-17; *see also* Ann L. Coker, *Does Physical Intimate Partner Violence Affect Sexual Health? A Systematic Review*, 8 Trauma, Violence, & Abuse 149, 151-53 (2007).

contraception;[36] a respondent to one study described how her partner "repeatedly flushed her birth control pills down the toilet and refused to use condoms."[37]

Experiences like this abound. When the National Domestic Violence Hotline surveyed over 3,000 women who called their national hotline, more than 25 percent reported that their abusive partner sabotaged birth control and tried to coerce pregnancy.[38] As one caller explained: "I better be pregnant, or I'm in trouble with him."[39] Another said "[h]e admitted to me and the psychologist that he intentionally got me pregnant to trap me."[40] While reproductive coercion may take place within a relationship that is not violent, in the context of intimate partner violence the prevalence is higher, the severity is higher, and the risk of unintended pregnancy is doubled.[41]

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[36] Coker, *supra* note 35, at 151-53; *see also* Miller et al., *supra* note 33, at 316-17, 319.

[37] Moore et al., *supra* note 33, at 1740.

[38] National Domestic Violence Hotline, *Hotline News, 1 in 4 Callers Surveyed at the Hotline Report Birth Control Sabotage and Pregnancy Coercion*, http://www.thehotline.org/2011/02/1-in-4-callers-surveyed-at-the-hotline-report-birth-control-sabotage-and-pregnancy-coercion/ (Feb. 18, 2011).

[39] *Id.*

[40] *Id.*

[41] Jonel Thaller & Jill Theresa Messing, *Reproductive Coercion by an Intimate Partner: Occurrence, Associations, and Interference with Sexual Health Decision Making*, Health & Social Work, Advance Access 2 (Dec. 12, 2015); *see also* Elizabeth Miller et al.,

Adolescents' unintended pregnancies correlate highly with abuse and reproductive coercion.[42] Reproductive coercion of teenagers may include rape, coerced sex, and pressure to get pregnant as a means of proving loyalty to the abusive partner.[43]

These studies demonstrated that women and adolescents who suffered abuse were more likely to experience reproductive coercion. A 2014 study at a large urban hospital made explicit the link between reproductive coercion in a woman's *current* relationship and intimate partner violence in that same relationship. Sixteen percent of women reported experiencing reproductive coercion in their lifetimes.[44] Thirty-two percent of those women reported that intimate partner violence co-occurred with reproductive

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Editorial: Reproductive Coercion: Connecting the Dots Between Partner Violence and Unintended Pregnancy, 81 Contraception 457, 457 (2010); *see also* Miller et al., *supra* note 33, at 320.

[42] Elizabeth Miller et al., *Male Partner Pregnancy – Promoting Behaviors and Adolescent Partner Violence: Findings from a Qualitative Study with Adolescent Females*, 7 Ambulatory Pediatrics 360, 364-65 (2007); *see also* Jay G. Silverman et al., *Dating Violence and Associated Sexual Risk and Pregnancy Among Adolescent Girls in the United States*, 114 Pediatrics e220, e221 (2004); Coker, *supra* note 35, at 169.

[43] Miller et al., *supra* note 42, at 363-64; Moore et al., *supra* note 33, at 1737, 1740.

[44] Lindsey E. Clark, et al., *Reproductive Coercion and Co-occurring Intimate Partner Violence in Obstetrics and Gynecology Patients*, 210 Am. J. Obstetrics & Gynecology 42.e1, 42.e6 (2014).

coercion in the same relationship.[45] And all of these studies add to the understanding that unintended pregnancy is associated with intimate partner violence.[46]

II. Coerced pregnancy and forced childbearing carry significant risks to survivors of intimate partner violence.

Every pregnancy carries some level of risk.[47] Unintended pregnancies, however, have significantly more health consequences.[48] Not only do pregnant women in abusive relationships face all the risks associated with pregnancy, they must also contend with the dangers presented by the violent intimate partner. Violence by intimates is understood to increase during pregnancy, in both frequency and

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[45] *Id.*

[46] *See* Thaller & Messing, *supra* note 41.

[47] Unfortunately, the United States is one of the only wealthy countries in the world where maternal mortality has increased in recent years. Pregnant women in the United States are more likely to die than women in 45 other countries. Christopher Ingraham, *Our Maternal Mortality Rate Is a National Embarrassment*, The Washington Post Wonkblog (Nov 18, 2015), https://www.washingtonpost.com/news/wonk/wp/2015/11/18/our-maternal-mortality-rate-is-a-national-embarrassment/ (citing statistics from World Health Organization, *Trends in Maternal Mortality 1990-2015: Estimates from WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division* (2015)).

[48] McFarlane, *supra* note 30, at 130 (unintended pregnancy is associated with a host of poor health outcomes, for both the pregnant woman and the child once born).

intensity. And if the survivor of intimate partner violence who is coerced into a pregnancy goes on to have a child with that partner, her ability to sever that abusive relationship is significantly curtailed.

A. Pregnancy is associated with increased, and more severe, physical violence in abusive relationships.

Unintended pregnancy threatens the health of any woman, but the consequences may be particularly grave for women in abusive relationships. Pregnant women experience high rates of domestic violence;[49] this abuse is often severe, frequently resulting in serious injuries.[50] Women abused during pregnancy are more likely to experience poor birth outcomes, including miscarriage or stillbirth.[51] Intimate partner

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[49] Beth A. Bailey, *Partner Violence During Pregnancy: Prevalence, Effects, Screening, and Management*, 2 Int'l J. Women's Health 183 (2010) (reviewing the literature on pregnancy and intimate partner violence, explaining that prevalence rates appear lower in population-based studies that used terminology unlikely to elicit disclosure; based on more appropriate studies, researchers estimate that up to 300,000 pregnant women in the United States experience intimate partner violence each year).

[50] Julie A. Gazmararian et al., *Prevalence of Violence Against Pregnant Women*, 275 JAMA 1915, 1918 (1996).

[51] Patricia A. Janssen et al., *Intimate Partner Violence and Adverse Pregnancy Outcomes: A Population-Based Study*, 188 Am. J. Obstetrics & Gynecology 1341, 1346-47 (2003); *see also* Deborah Tuerkheimer, *Conceptualizing Violence Against Pregnant Women*, 81 Ind. L.J. 667, 672 (2006); Maja Altarac & Donna Strobino,

violence against pregnant women is also associated with a host of pregnancy complications, including "infection, anemia ., pelvic fracture ., preterm delivery, and low birth weight."[52] The extreme levels of violence directed at pregnant women by their abusers may have the ultimate horrific result: the murder of the pregnant woman. In the United States, homicide is a leading cause of the deaths of pregnant women.[53]

Pregnant women who decide to separate from abusive partners face numerous risks when leaving the relationship, from economic devastation to separation assault. For a woman who is married to the abusive partner, divorcing or separating through the legal system while pregnant generally requires that she disclose the pregnancy.[54] Regardless of the merits of

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Abuse During Pregnancy and Stress Because of Abuse During Pregnancy and Birthweight, 57 J. Am. Med. Women's Ass'n 208 (2002).

[52] American College of Obstetricians & Gynecologists, Committee on Health Care for Underserved Women, *Committee Opinion No. 518: Intimate Partner Violence* 2 (Feb. 2012), https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co518.pdf?dmc=1&ts=20151228T1609351571.

[53] Jeani Chang et al., *Homicide: A Leading Cause of Injury Deaths Among Pregnant and Postpartum Women in the United States, 1991-1999*, 95 Am. J. Pub. Health 471, 473 (2005) (homicide ranked third among causes of pregnant women's deaths; African American women and very young women were most likely to be murdered during pregnancy).

[54] *See, e.g.*, Texas Judicial Branch, Rules & Forms, Supreme Court Approved Divorce Forms, http://www.txcourts.gov/rules-

this requirement, it provides yet another opportunity for the abuser to exercise coercive power over the pregnant woman's life. *See Casey*, 505 U.S. at 888 (acknowledging that an abusive husband could "retaliate against [a survivor] in divorce proceedings" (citation omitted)). For survivors who already have children with an abusive partner, or who are forced to bear a child through a coerced pregnancy or rape, the stakes may be even higher.

B. Separation is even more difficult when a woman has a child with the abusive partner.

Having a child with an abusive partner makes it exponentially more difficult to safely leave the relationship.[55] Using children to threaten and further intimidate the other parent is a common aspect of abusive relationships, and the fear a protective parent experiences not just for her own safety, but for that of her children, is grounded in a stark reality. *See, e.g., Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005) (holding there is no procedural due process right to police enforcement of an order for protection that, by its terms, mandated such enforcement; the case arose from the abduction and murder of Jessica Lenahan's

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forms/forms.aspx (last visited Dec. 28, 2015) (although the dissolution statute is silent, official state-approved dissolution forms require disclosure of whether the wife is pregnant).

[55] *See, e.g.*, Naomi R. Cahn, *Civil Images of Battered Women: The Impact of Domestic Violence on Child Custody Decisions*, 44 Vand. L. Rev. 1041, 1051 (1991) (describing abused women's legal difficulties when leaving with children and their reluctance to flee without them).

three young daughters by their abusive father). As *Castle Rock* illustrates, the U.S. legal system is not a failsafe against private violence for abuse victims – particularly for those who have children in common with their abusive ex-partners.

Moreover, the legal rights of the abusive parent – which are constitutional in nature – require that the abused parent utilize the legal system to try to obtain custody and ensure protective parenting arrangements. All too frequently, a parent must do this without legal advice or representation.[56] Violent partners use this system to their advantage; abusive fathers are more likely to seek child custody than non-abusive fathers, and when they do, they succeed in gaining it more than 70 percent of the time.[57]

The terrible irony is that while abused parents, particularly mothers, face deep skepticism from the family law system about their claims of abuse, the child welfare system is quick to hold them accountable for "failure to protect" their children from the intimate

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[56] *See* Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans* 25 (2009), http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/JusticeGaInAmerica2009.authcheckdam.pdf (throughout the United States, extremely high numbers of litigants in family law cases appear *pro se*).

[57] American Bar Association Commission on Domestic Violence, *10 Custody Myths and How to Counter Them*, 4 ABA Commission on Domestic Violence Quarterly E-Newsletter 3 (July 2006), http://www.americanbar.org/content/dam/aba/publishing/cdv_enewsletter/custodymythsandcounter.authcheckdam.pdf.

partner violence their mothers experience.[58] This "damned if you do, damned if you don't" legal response undermines the civil rights of mothers, and provides abusive partners with yet another weapon of control. *Nicholson v. Williams*, 203 F Supp. 2d 153, 248, 250 (E.D.N.Y. 2002) (holding New York City's policy of removing children from their mothers solely because their mothers suffered domestic violence violated numerous constitutional rights, including rights to equal protection and substantive due process).

Thus, a woman's decision to terminate a pregnancy in the context of a violent relationship is informed by her understanding of whether and how she can gain and maintain her safety, and the safety of her current and any future children. Ideally, that decision would be made free of intimate partner violence, or at least within reformed family law and child welfare systems that would support, rather than undermine, abuse survivors and their children. In today's reality, however, the pressures of intimate partner violence on survivors' reproductive health and decision-making must be accounted for in public policy, including ensuring, for Texas women, a meaningful right to decide whether to have an abortion without the new and substantial obstacle Texas has placed in their paths.

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[58] *See* Schneider et al., *Domestic Violence and the Law: Theory and Practice*, *supra* note 23, ch. 12, *Domestic Violence and the Child Protective System*.

III. The survivor of intimate partner violence needs meaningful access to abortion if she decides to terminate a pregnancy.

Given the prevalence of sexual violence and reproductive coercion in abusive relationships, it is unremarkable that women who seek abortions may be victims of intimate partner violence.[59] In every study considering the question, in the United States and around the world, researchers found an association between intimate partner violence and pregnancy termination.[60] The reasons an individual survivor of intimate partner violence may choose to end a pregnancy are as personal and unique as any woman's reproductive decisions; however, research indicates that that decision is informed by the context of a violent relationship.[61]

If the pregnancy is a result of a rape or coercion, a survivor of intimate partner violence may decide to

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[59] *See, e.g.*, Vicki Breitbart, *Abortion, in Sexual Violence and Abuse: An Encyclopedia of Prevention, Impacts, and Recovery* (Judy L. Postmus, ed., 2012); Gigi Evins & Nancy Chescheir, *Prevalence of Domestic Violence Among Women Seeking Abortion Services*, 6 Women's Health Issues 204 (1996); Susan S. Glander et al., *The Prevalence of Domestic Violence Among Women Seeking Abortion*, 91 Obstetrics & Gynecology 1002 (1998).

[60] *See* Megan Hall et al., *Associations between Intimate Partner Violence and Termination of Pregnancy: A Systematic Review and Meta-Analysis*, 11 PLoS Med e1001581 (2014) (identifying 74 studies from the United States and around the world that demonstrated a correlation between seeking abortion and experiencing intimate partner violence).

[61] *Id.*

terminate the pregnancy because it was forced upon her; approximately half of women who become pregnant as a result of rape will have abortions.[62] She may terminate the pregnancy because she fears ongoing physical harm if she carries the pregnancy to term.[63] She may fear she will be trapped in the abusive relationship if she continues her pregnancy.[64] Research bears that out; for women in abusive relationships who sought abortions but were denied them, having a baby with the abuser appeared to result in ongoing violence, measured over the course of two and one-half years after the pregnancy.[65] Conversely, "having an abortion was associated in a reduction over time in physical violence" from the man involved in the pregnancy.[66]

In addition to seeking protection for her own safety, a survivor of intimate partner violence may terminate a pregnancy to avoid exposing a child to violence and

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[62] Melisa M. Holmes et al., *Rape-related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*, 175 Am. J. Obstetrics & Gynecology 320, 322 (1996) (50 percent of women pregnant through rape had abortions).

[63] Sarah CM Roberts et al., *Risk of Violence from the Man Involved in the Pregnancy After Receiving or Being Denied an Abortion*, 12 BMC Medicine 1 (2014); *see also* Junda Woo et al., *Abortion Disclosure and the Association with Domestic Violence*, 105 Obstetrics & Gynecology 1329 (2005) (a significant subset of women who do not disclose their abortion decision to their partners did so because they feared physical violence).

[64] Roberts et al., *supra* note 63, at 2, 5.

[65] *Id.* at 5.

[66] *Id.*

abuse.[67] Many women in violent relationships already have children whom they struggle to protect from exposure to violence and abuse.[68] Becoming pregnant makes the mother of those children more vulnerable to more severe abuse, raising their risks of witnessing or experiencing violence themselves.

Some women in violent relationships may be coerced into the abortion decision.[69] Unfortunately, abortion opponents focus only on this form of reproductive coercion, ignoring coerced or forced childbearing.[70] In the context of intimate partner violence, both types of coercion exist, and both are a violation of women's dignity and autonomy.[71] However,

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[67] Karuna S. Chibber et al., *The Role of Intimate Partners in Women's Reasons for Seeking Abortion*, 24 Women's Health Issues e131, e134 (2014).

[68] *See, e.g.*, Joan S. Meier, *Domestic Violence, Child Custody, and Child Protection: Understanding Judicial Resistance and Imagining the Solutions*, 11 Am. U. J. Gender Soc. Pol'y & L. 657 (2003) (describing the skepticism that protective parents, particularly mothers, face when seeking to protect their children from abuse through the family law system).

[69] *See* Chibber et al., *supra* note 67, at e132.

[70] Schneider et al., *supra* note 23, at 190; *see also* Cat Clark, *Intimate Partner Violence*, Feminists for Life, http://www.feministsforlife.org/intimate-partner-violence/ (last visited Dec. 28, 2015) (recognizing reproductive coercion as a cause of unwanted pregnancy and pressure to force an abortion, with no discussion of abusers' pressure to keep the pregnancy and force childbearing).

[71] Schneider et al., *supra* note 23, at 188 ("Restricting a woman's right to carry a child to term undermines her sexual autonomy just

more often the pregnancy itself and continuing the pregnancy are coerced or forced.[72] This is not surprising in the context of intimate partner violence, because coerced childbearing is a far more powerful tool for maintaining long-term control of an intimate partner. Regardless, responding to this private violation of women's autonomy and dignity by further restricting women's autonomy and demeaning their dignity is illogical and dangerous.

In addition to fears of the abuse itself, the economic insecurity that traps so many survivors in abusive relationships may also inform the abortion decision. Having a child, or another child, with an abusive partner increases the risks upon leaving that a woman and her children will face poverty, even homelessness. Intimate partner violence is a significant cause of women's and children's homelessness.[73]

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as increasing her risk of an unintended pregnancy or prohibiting her from seeking a medically safe abortion does.").

[72] Chibber et al., *supra* note 67, at 136e (finding that coercion to have an abortion was rare; rather, "those identifying abusive partners as a reason for seeking abortion did not describe their partner as threatening or physically hurting them as a way of forcing them to have an abortion. Instead, their descriptions suggest that the women independently decided to seek abortions, perceiving this as their best option to end abusive relationships.").

[73] Carmela DeCandia et al., *Closing the Gap: Integrating Services for Survivors of Domestic Violence Experiencing Homelessness*, The National Center on Family Homelessness 2 (2013), http://www.familyhomelessness.org/media/371.pdf (one in four homeless women is homeless because of intimate partner violence); *see also* City Policy Associates, *Hunger and Homelessness Survey: A Status Report on Hunger and Homelessness in America's Cities*,

All of these risks, and more, are inherent in a pregnancy that occurs in the context of a violent relationship. Access to abortion for the pregnant survivor of intimate partner violence is thus critical, and government policies should support, not undermine, such access. This is because the abused pregnant woman faces a host of barriers to health care by virtue of the controlling conduct of the abusive partner; public policy should work against such behavior, rather than imposing additional barriers.

IV. Survivors of intimate partner violence already face significant abuser-generated barriers to accessing reproductive health services.

Restricting access to abortion providers affects critical health care for survivors of intimate partner violence, whose risk of serious injury or of death is compounded by pregnancy Meaningful policies to advance women's health should instead address existing barriers to health care that plague survivors of intimate partner violence – many of which are imposed by the abusive partner's domination of the survivor's life and access to resources.

United States Conference of Mayors (2014), http://www.usmayors.org/pressreleases/uploads/2014/1211-report-hh.pdf (domestic violence was among the significant causes of urban family homelessness in 2014).

Abusers limit access to health care as yet another means of controlling their partners.[74] An abuser may prevent his partner from making or keeping medical appointments, sabotage transportation to medical care, or insist on accompanying the abused partner and refusing to allow private conversations between her and her health care provider.[75] One survivor of intimate partner violence explained this phenomenon as follows: "I am seven months pregnant and he's assaulting me. My doctor has never asked me about domestic violence. My husband never leaves me alone during my doctor visits--[he] is always by my side."[76]

Financial control and manipulation also limit abuse survivors' access to health care; abusive partners may refuse to allow a survivor the funds to cover co-pays or to purchase a prescription, or may prevent her access to health insurance entirely.[77] Preventing survivors from accessing health care is particularly pernicious, because health care providers who follow their profession's abuse screening recommendations are

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[74] *See, e.g.*, Michael Rodriguez et al., *Intimate Partner Violence and Barriers to Mental Health Care for Ethnically Diverse Populations of Women*, 10 Trauma Violence Abuse 358 (2009).

[75] *See* Karen Oehme et al., *Unheard Voices of Domestic Violence Victims: A Call to Remedy Physician Neglect*, 15 Geo. J. Gender & L. 613, 633 (2014).

[76] *Id.* at 636 (brackets in original; citation omitted).

[77] *Id.* at 633.

often well positioned to discern that a patient may be a survivor of intimate partner violence and offer help.[78]

In Texas, over 15 percent of the population is made up of immigrants,[79] so the impact of intimate partner violence on immigrant women is of particular concern when analyzing Texas policies. If the abused spouse is an immigrant, she may have no health care coverage by virtue of federal law that denies it based on her immigration status.[80] Recent immigrants are also especially unlikely to know where, how, and whether they can access health care.[81]

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[78] American College of Obstetricians & Gynecologists, Committee on Health Care for Underserved Women, *Committee Opinion No. 518: Intimate Partner Violence* at 3 ("Health care providers are often the first professionals to offer care to women who are abused. The U.S. Department of Health and Human Services has endorsed the Institute of Medicine's recommendation that IPV screening and counseling be a core part of women's health visits.").

[79] American Immigration Council, *New Americans in Texas: The Political and Economic Power of Immigrants, Latinos, and Asians in the Lone Star State* 1 (2015), http://www.immigrationpolicy.org/sites/default/files/docs/new_americans_in_texas_2015.pdf.

[80] *See* Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, § 403, 110 Stat. 2105, 2265-67 (enacting five-year ban on immigrants' eligibility for federal means-tested programs), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104-208, 110 Stat. 3009.

[81] Leslye Orloff & Olivia Garcia, *Dynamics of Domestic Violence Experienced by Immigrant Victims, in Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants*, National Immigrant Women's Advocacy Project 2, http://library.niwap.org/wp-content/uploads/2015/pdf/FAM-

An immigrant survivor seeking reproductive health care also risks retaliation from the abuser, including threats of deportation, a common tool abusive people use against their immigrant partners.[82] Indeed, a Texas study surveying Latina and Latino Texans, both immigrant and non-immigrant, found that fear of being reported to immigration and being deported is the number one barrier for immigrant survivors of intimate partner violence to seeking help or reporting the violence to authorities.[83] That fear of being reported to immigration – even when the person has documented status in the United States – is so pervasive among immigrant populations that it frequently prevents immigrants from getting the services they need.[84]

Manual-Full-BreakingBarriers07.13.pdf ("[F]oreign-born women are frequently uninformed, unfamiliar with or simply confused about, their legal rights and the social services available to them in the United States.").

[82] *Id.* at 7 (such threats are common, and include threats that the abused partner will be separated from her children by deportation; these threats are also associated with lethal intimate partner violence).

[83] Texas Council on Family Violence, *Hispanic Texans and Domestic Violence: A Statewide Study*, Executive Summary 3 (2003), http://www.tcfv.org/pdf/PAC_Hisp_Exec_Summary_final.pdf.

[84] Krista M. Perreira et al., *Barriers to Immigrants' Access to Health and Human Services Programs*, Office of the Assistant Secretary for Planning and Evaluation, Office of Human Services Policy, U.S. Dep't of Health and Human Services 11 (May 2012), https://aspe.hhs.gov/sites/default/files/pdf/76471/rb.pdf.

V. H.B. 2 presents a substantial obstacle to the exercise of the right to decide to have an abortion for survivors of intimate partner violence.

The private violence of abusers imposes multiple barriers to women's access to abortion and to reproductive health care in general. The state must not – and constitutionally, cannot – collude in the deprivation of women's rights and dignity by forcing them to go through with forced, coerced, potentially dangerous pregnancies that may permanently trap them in abusive relationships. Texas, however, may do precisely that if the challenged provisions to H.B. 2 are upheld. Traveling long distances, or even out of state, to obtain an abortion is simply prohibitive for many survivors of intimate partner violence, whose time outside the home and access to transportation are tightly controlled.

Despite the deluge of new restrictions on access to abortion, women retain the constitutional right to decide whether to end a pregnancy. That right is vital to a woman's ability to equal participation in "the economic and social life of the Nation." *Casey*, 505 U.S. at 856; *see also Gonzales v. Carhart*, 550 U.S. 124, 172 (2007) (Ginsberg, J., dissenting) ("[A]t stake in cases challenging abortion restrictions is a woman's 'control over her [own] destiny.'" (brackets in original) (*quoting Casey*, 505 U.S. at 869)). For a woman pregnant by a violent partner, a meaningful abortion right is just as essential, as the abuser has attempted to wrest that control from her. It is not an exaggeration to say that her ability to have an abortion may mean the difference between her life and death.

Upholding an unnecessary law that will force the closure of abortion clinics across vast geographic areas in Texas will only escalate the difficulties for survivors of abuse when they become pregnant through reproductive coercion or rape. For any woman, such barriers present a substantial obstacle to accessing abortion care. For survivors of intimate partner violence, those barriers may make getting an abortion impossible. And by grounding the imposition of this substantial obstacle to access to abortion services for survivors of intimate partner violence in a claim of promoting women's health, Texas paternalistically denies women's dignity and agency in much the same way that abusers use coercive control to exercise dominion over their intimate partners. *See Casey*, 505 U.S. at 898 (the Constitution does not permit giving abusive spouses an effective veto over their wives' personal decisions, including the decision to terminate a pregnancy).

CONCLUSION

Public policy should support the efforts of survivors of intimate partner violence to break free of abuse and reclaim their health and safety. Abortion services, like other health care services, are critical lifelines for people in abusive relationships. Texas' attempt to further restrict women's access to abortion services – in the name of protecting their health – does the opposite. It increases the risks to the health and safety of all Texas women, and compounds the obstacles already faced by intimate partner violence survivors who need abortion services.

Respectfully submitted,

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APPENDIX

APPENDIX

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Appendix A STATEMENTS OF INTEREST OF *AMICI CURIAE* App. 1

APPENDIX A

STATEMENTS OF INTEREST OF *AMICI CURIAE*

Organizations

Aid to Victims of Domestic Abuse (AVDA) works to end family violence by advocating for the safety and self-determination of victims, promoting accountability for abusers, and fostering a community response to abuse. AVDA is a unique non-profit that has served Houston for over 30 years. AVDA provides free and low-cost legal representation to victims of domestic abuse in civil family law matters, including divorce, child custody and support, adoptions, name changes, and protective orders.

The **Alliance of Tribal Coalitions to End Violence** (ATCEV) represents 18 tribal coalitions in the United States. ATCEV provides technical assistance to tribal nations and peer to peer support on issues related to domestic violence. It also determines agendas of importance in protecting the sovereignty of Native women, including their right to choice.

API Chaya is a non-profit organization located in Seattle that supports Asian, South Asian, and Pacific Islander survivors and families impacted by domestic violence and assault, as well as human trafficking survivors from all communities. Its work is grounded in recognizing survivors as complex, whole beings with the right to make decisions about their own lives, including recognizing and supporting each survivor's

worth, integrity, right to self-determination and safety. Much of its work is to provide assistance in removing barriers to these ends. API Chaya believes that survivors are capable and resourceful human beings who exist in environments that do not fully support or recognize (and often actively deny) their worth and abilities. It recognizes that survivors have the potential to make decisions that foster healthy, violence-free relationships and communities when given real, accessible choices centered around self-determination.

The **Battered Women's Justice Project** (BWJP) is a national technical assistance center that provides training and resources for advocates, battered women, legal system personnel, policymakers, and others engaged in the justice system response to intimate partner violence (IPV). The BWJP promotes systemic change within the civil and criminal justice systems to ensure an effective and just response to victims and perpetrators of IPV, and the children exposed to this violence. The BWJP is an affiliated member of the Domestic Violence Resource Network, a group of national resource centers funded by the U.S. Department of Health and Human Services and other support since 1993. The BWJP also serves as a designated technical assistance provider for the Office on Violence Against Women of the U.S. Department of Justice. In an effort to promote more safe and just results for women and their children, the BWJP works at state, national and international levels to engage court systems in methods of accurately assessing the effects of IPV on women and children and to fashion safe outcomes that hold batterers accountable.

The **Domestic Violence Legal Empowerment and Appeals Project** (DV LEAP) was founded in 2003 in response to the reality of domestic violence survivors not receiving parity in the court system. DV LEAP provides a stronger voice for justice by helping overturn unjust trial court outcomes; advancing legal protections for victims and their children through expert appellate advocacy; training lawyers, psychologists, and judges on best practices; and spearheading domestic violence litigation in the Supreme Court. DV LEAP has co-authored amicus briefs in Washington, D.C. and in state courts across the country, as well as in the United States Supreme Court, on domestic violence, sexual assault, stalking, and child custody.

Jewish Family Service was founded in 1892 in Seattle. An important service provided by the agency is its domestic violence program, Project DVORA. From its experience of working with domestic violence survivors, Jewish Family Service knows of survivors' fear and experience of reproductive violence, such as men preventing partners from using birth control, preventing their rights to an abortion, or rape.

Legal Voice, founded in 1978 as the Northwest Women's Law Center, is a non-profit public interest organization that works to advance the legal rights of all women through litigation, legislation, and legal rights education. Since its founding, Legal Voice has worked to protect and advance women's reproductive rights and to establish and improve legal protections for survivors of intimate partner violence. Toward that end, Legal Voice has pursued legislation and has participated as counsel and as *amicus curiae* in cases throughout the Northwest and the country that seek to

protect reproductive rights as well as survivors of intimate partner violence.

The **National Center on Domestic and Sexual Violence** (NCDSV) provides training, consultation, and advocacy with the goal of ending sexual and domestic violence. Because of its work, NCDSV knows that women must have access to any reproductive-related services they chose. Those who use violence against women often attempt to interfere with these very personal choices.

National Organization for Women Foundation (NOW Foundation) is a 501(c)(3) organization devoted to furthering women's rights through education and litigation. Created in 1986, NOW Foundation is affiliated with the National Organization for Women, the largest feminist organization in the United States, with hundreds of thousands of contributing members in hundreds of chapters in all 50 states and the District of Columbia. Since its inception, NOW Foundation's goals have included protecting women's constitutional right to decide whether or not to have an abortion, and to ensure that every woman can meaningfully exercise her fundamental reproductive rights.

The **Northwest Network of Bi, Trans, Lesbian & Gay Survivors of Abuse** (NW Network), located in Seattle, works with diverse survivors of abuse. Bisexual women experience the highest rates of intimate partner violence across the life course, according to the National Intimate Partner and Sexual Violence Survey. From its work, the NW Network recognizes that coerced pregnancy is a common tactic of abuse used against survivors. Safe and accessible birth control, abortion services, and prenatal care are

essential for survivor self-determination, stability, safety and well-being.

Safe Passage, Inc. is the leader in Hampshire County, Massachusetts in addressing the impact and promoting prevention of domestic violence. Safe Passage understands that reproductive coercion is one of the more powerful tools that abusers use to maintain power and control over their partners, and access to safe and legal reproductive health care – including but not limited to abortion – is essential to women's freedom and independence.

Tewa Women United (TWU) is a collective intertribal women's voice in the Tewa homelands of Northern New Mexico. Founded in 1989, its mission is to provide safe spaces for Indigenous women to uncover the power, strength, and skills they possess to become positive forces for social change in their families and communities. TWU works to end all forms of violence against Native women and girls.

The **Vermont Network Against Domestic and Sexual Violence** is a statewide resource on domestic and sexual violence issues. Its staff provides technical assistance and training to member programs and statewide partners, informs public policy, and coordinates statewide projects and conferences. The Vermont Network recognizes the deleterious impact of reproductive coercion in intimate partner violence, and the undue impact that restrictive reproductive policies impose upon victims of intimate partner violence.

The **Washington State Coalition Against Domestic Violence** (WSCADV), founded in 1990, is a statewide membership organization comprised of over

70 domestic violence victim advocacy organizations and other individuals in Washington State committed to ending domestic violence. The mission of WSCADV is to end domestic violence through advocacy and action for social change. WSCADV coordinates the Washington State Domestic Violence Fatality Review, which reviews domestic violence homicides in Washington State in order to improve systemic responses that may help prevent future deaths. One of the Fatality Review's findings is that in over 30% of domestic violence homicides in Washington between 2007 and 2015, the victim was under age 21 when she or he met her or his abusive partner. Over one-third of those who had met their abusers as a teenager or young adult had dependent children, often meaning they were obligated to be in continuing contact with their abusers, even if they had separated. WSCADV's collective experience demonstrates that if a domestic violence survivor is trying to prevent or terminate a pregnancy, she may be doing so for reasons directly related to the violence perpetrated by the abuser. Timely access to abortion may be critical for a domestic violence victim's safety and freedom from abuse.

The **Washington State Native American Coalition Against Domestic Violence and Sexual Assault – WomenSpirit Coalition** provides technical assistance, consultation, and training to tribal communities on issues related to domestic violence, sexual assault, dating violence, stalking, and sex trafficking. It stands for tribal sovereignty and the protection of individual safety and sovereignty of women's choices and their bodies, and against violence against women.

Law Professors and Other Experts[1]

Kim Shayo Buchanan is an Associate Professor of Law and Gender Studies at the University of Southern California Gould School of Law. Professor Buchanan teaches constitutional law, reproductive rights, and international human rights law. She previously worked as a senior fellow at the Center for Reproductive Rights in New York City, where she authored *Women's Reproductive Rights in the United States*.

Donna K. Coker is a Professor of Law at the University of Miami School of Law, and a nationally recognized expert in domestic violence law and policy. One of her major areas of research concerns the connection between economic vulnerability and domestic violence. She is a leading critic of the disproportionate focus on criminal justice responses that characterize U.S. domestic violence policy. Her widely cited research illustrates the negative impact of this focus on battered women marginalized as a function of race, poverty, or immigration status. Before attending law school, Professor Coker worked in the domestic violence field for ten years, beginning in 1978 when she was the sole staff person for a newly opened battered women's shelter in Little Rock, Arkansas. She has trained religious professionals, military police, shelter staff, attorneys, and judges on responding to domestic violence.

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[1] Law school and other affiliations are listed for identification purposes only. Each law professor and expert joins this brief as an individual, not on behalf of an institution or organization.

Margaret Drew is nationally recognized as an expert on domestic violence. She has represented survivors of intimate partner violence since 1981. She is Associate Professor and Director of Clinics and Experiential Learning at the University of Massachusetts Law School. Professor Drew has directed the Domestic Violence and Civil Protection Order Clinics for the past 12 years. She directed domestic violence clinics at the University of Cincinnati College of Law, the University of Alabama College of Law, and Northeastern University School of Law. Professor Drew is a former chair of the American Bar Association's Commission on Domestic and Sexual Violence. She has been active with the Commission since its inception 20 years ago. She trains judges, lawyers, medical personnel and others on the dynamics of domestic violence and related topics. Her scholarship focuses primarily on domestic violence. Professor Drew has represented clients who have been abused and denied control over reproductive decisions that are vital to their health and independence. Professor Drew has an interest in ending gender-based violence and recognizes that reproductive autonomy is essential in attaining that goal.

Julie Goldscheid is the Associate Dean for Academic Affairs and Professor of Law at CUNY School of Law, where she teaches courses on gender equality as well as civil procedure and lawyering. She writes and speaks widely about gender equality, with a particular focus on gender-based violence and economic equality. Before joining the CUNY faculty, she held a number of positions including senior staff attorney and acting legal director at Legal Momentum (formerly NOW Legal Defense and Education Fund). She

spearheaded that organization's legal work to end violence against women, which included defending the constitutionality of the civil rights remedy of the 1994 Violence Against Women Act in courts nationwide, and before the U.S. Supreme Court in *United States v. Morrison*. She continues to be involved in advocacy to end domestic and sexual violence and to advance gender equality.

Leigh Goodmark is Professor of Law at the University of Maryland Francis King Carey School of Law in Baltimore, Maryland. She is currently Director of the Clinical Education and Family Law Clinic and previously taught in the Families and the Law Clinic at the Catholic University of America, Columbus School of Law in Washington, D.C. Before becoming a legal educator, Professor Goodmark directed the Children and Domestic Violence Project at the American Bar Association's Center on Children and the Law. Professor Goodmark's clinic regularly represents women subjected to intimate partner violence, including reproductive coercion, and women who have been raped and sexually assaulted, and who may need access to abortions as a result.

Nancy K. D. Lemon has worked in the field of domestic violence law since graduating from Boalt Hall School of Law (Berkeley Law) in 1980. She has taught the first regularly offered course on Domestic Violence Law since 1988 at Berkeley Law, and authored the first textbook on this topic. She is the Legal Director and co-founder of Family Violence Appellate Project in California, the only statewide non-profit in the United States focusing on appealing family law cases involving domestic violence. Professor Lemon has authored and

co-authored several domestic violence-related amicus briefs in various states. She has served as an expert witness in dozens of domestic violence cases in California since 1995. Professor Lemon has authored numerous books and articles on domestic violence, and has been instrumental in efforts leading to California's having enacted many statutes protecting survivors of domestic abuse and their children and holding perpetrators of such abuse accountable.

Kris McDaniel-Miccio is a Professor of Law at the University of Denver Sturm College of Law. Professor McDaniel-Miccio is also an ordained Rabbi. She teaches criminal law and procedure, jurisprudence, and a seminar on the Holocaust. Professor McDaniel-Miccio was a Fulbright Scholar to the Republic of Ireland where she conducted research on male intimate violence in a Catholic country. She has received numerous awards for her scholarship on state accountability and male intimate violence, including the Marie Curie Transfer of Knowledge Award, Erasmus Mundus, and a Fulbright Senior Specialist. Prior to entering the legal academy, Professor McDaniel-Miccio was a prosecutor in New York City and the founding director of Sanctuary for Families Center for Battered Women's Legal Services.

Jill Messing, MSW, PhD is a professor in the School of Social Work at Arizona State University, where she studies intimate partner violence. From her research, Professor Messing recognizes that more than half of women who are abused by an intimate partner are also sexually abused or assaulted and that reproductive coercion is a devastating form of intimate partner sexual violence. Professor Messing has

authored over 40 peer-reviewed papers on intimate partner violence, including as a co-author on a paper cited in the brief on intimate partner violence and reproductive health.

Sommer Neff is a non-profit worker, activist and reproductive rights volunteer. She recently served as board member and Secretary of Texas Equal Access fund, a social change organization dedicated to funding abortions for persons who otherwise could not afford them. She has also worked as a shelter director for a domestic violence shelter. She has a BSW from University of North Texas and an MSW from the University of Denver.

Bich-May Nguyen, M.D., MPH is a family physician in Houston and has cared for patients who have been abused or sexually assaulted. She has served as a Health Policy Advocacy Fellow for the National Physicians Alliance and is a current member of the organization. She has published op-eds and submitted legislative testimony on issues including reproductive health, gun violence, and pharmaceutical conflicts of interest.

Oanh-Nhi Nguyen is the program associate for Move to End Violence. She has also worked on the Global Clothesline Project documentary, which documents the stories of domestic violence survivors from various parts of the world. In 2012, she founded a youth violence prevention program for over 120 participants in Pennsylvania and was selected as a semi-finalist for the Peace First Prize, a Nobel for young people.

Eesha Pandit is a Houston-based writer, activist and consultant for social justice organizations. She recently served as Executive Director of Men Stopping Violence, a social change organization dedicated to ending men's violence against women. She has also worked as Women's Rights Manager at Breakthrough, a global human rights organization. At Breakthrough, Ms. Pandit worked on a campaign to engage men and boys to take action, get involved, and help end violence against women. Previously, she served as Director of Advocacy at Raising Women's Voices, where she coordinated a national field network of 22 state-based regional coordinators working to include women's health access in local, state and national policy efforts. She serves as the Co-President of the Board of Directors of the National Network of Abortion Funds. She has a B.A. from Mount Holyoke College and an M.A. from the University of Chicago.

Elizabeth M. Schneider is the Rose L. Hoffer Professor of Law at Brooklyn Law School. Professor Schneider teaches and writes in the fields of women's rights and domestic violence and the law. She is the author of *Battered Women and Feminist Lawmaking* (Yale University Press, 2000) and the law school casebook *Domestic Violence and the Law: Theory and Practice* (Foundation Press 3d. 2013) (with Cheryl Hanna, Emily J. Sack and Judith Greenberg) and has written many articles in these fields. She is deeply concerned with the need to protect women's autonomy and reproductive choice, especially given the pervasiveness of intimate partner violence.

Jane Stoever is a faculty member at the University of California, Irvine School of Law. She has

extensive experience representing abuse survivors, teaching domestic violence law clinics, and engaging in scholarship in the areas of domestic violence law, family law, and feminist legal theory. As the Director of the Domestic Violence Clinic at UCI, Professor Stoever and her students represent abuse survivors in civil, criminal, and immigration cases, as they seek to increase their clients' safety and autonomy. Many of the Clinic's clients have experienced reproductive coercion, sexual assault, rape, forced prostitution, heightened abuse related to pregnancy, and interference with medical decisions and care. Professor Stoever is also the Director of the Initiative to End Family Violence, which unites faculty from 20 departments at UCI and community partners in research and clinical interventions in family violence. Professor Stoever previously taught at Georgetown University Law Center, American University Washington College of Law, and Seattle University School of Law.

Deborah Tuerkheimer is a Professor of Law at Northwestern University, where she teaches Criminal Law, Evidence, and Feminist Jurisprudence. She is a co-author of West's *Feminist Jurisprudence* casebook. Much of her scholarship has focused on domestic violence and the criminal justice system's inadequate response to ongoing patterns of control. She has also published an article specifically treating the problem of violence during pregnancy. Before entering academia, she served as an Assistant District Attorney in the New York County District Attorney's office, where she specialized in domestic violence prosecution.

Merle H. Weiner is the Philip H. Knight Professor of Law at the University of Oregon School of Law. She is a founder and the faculty director of the law school's Domestic Violence Clinic. The Clinic has been in operation since 1999 and represents predominantly low-income survivors of domestic violence, sexual assault, and stalking. Professor Weiner has also written numerous articles and book chapters that address how various legal issues affect domestic violence survivors.

D. Kelly Weisberg is a professor of family law at Hastings College of Law, University of California. She is co-author of a family law casebook (*Modern Family Law*, Aspen Publishers, 6th ed., forthcoming 2016), and author or co-author of two books on reproductive rights (*Adoption and Assisted Reproduction: Families Under Construction*, Aspen 2009; *The Birth of Surrogacy in Israel*, University Press of Florida, 2005). Professor Weisberg has a longstanding interest in issues of reproductive freedom.